

STATE OF TENNESSEE

Office of the Attorney General



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425 Fifth Avenue North, 2<sup>nd</sup> Floor  
Nashville, TN 37243-0491

February 28, 2001

Mr. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

RE: Show Cause Proceeding Against Gasco Distribution Systems, Inc.  
Docket No. 97-00293/ 97-00160

Dear Mr. Waddell:

The Consumer Advocate and Protection Division of the Attorney General's Office ("Attorney General") has reviewed Mr. Walker's letter dated February 26, 2001 regarding Gasco's proposal that a portion of the previously suspended fine be used to assist customers who are having difficulty paying their winter gas bills.

First of all, the Attorney General asserts that in light of Gasco's noncompliance during the current probationary period, it should, in addition to payment of a fine, voluntarily agree to an extension of the company's probationary period significantly beyond July 1, 2001. The Attorney General would suggest an extension for at least an additional year to July 1, 2002. Additionally, the Attorney General would also suggest that Gasco needs to be punished in an appropriate fashion to bring them into full compliance with the Tennessee Regulatory Authority's ("Authority") previous orders and all of its rules and regulations. Clearly, Gasco's filing of four late reports during a company's probationary period indicates a disregard or concern for the rules and regulations of the Authority. Thus, we request that the Authority take swift and strong action to send a message to Gasco and others that Authority rules will be strictly enforced for the

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protection of the citizens of Tennessee.

If the Authority decides to agree to Gasco's proposal regarding changing a portion of the fine to a fund to assist customers who are having difficulty paying their winter gas bills, the Attorney General has the following matters to point out:

- (1) The Authority will have to issue a new order changing the fine to an order instituting the fund given fines are paid to the State;
- (2) Gasco should be required to pay the previously ordered full amount into an interest bearing escrow account immediately while the details are worked out to demonstrate good faith to the Authority;
- (3) Gasco would not be able to deduct a fine or civil penalty for tax purposes but they may be able to use the creation of such a fund as a business expense. Thus, the Authority should consider increasing the amount to offset the real dollar difference in a fine and the creation of a special fund. Additionally, the Attorney General requests that any such order clearly prohibit the cost of such a fund being passed on to consumers;
- (4) A fine is not dischargeable in bankruptcy. However, the Authority would likely not have the same protection of any amount paid to assist customers if Gasco finds themselves in a bankruptcy situation;
- (5) Gasco would be able to use the creation of a natural gas relief fund as a promotional effort to create goodwill with its customers. Thus, the Authority should consider requiring the company to inform consumers that they are receiving the relief funds as a result of an order of the Tennessee Regulatory Authority in lieu of Gasco's payment of a fine; and
- (6) A detailed plan needs to be developed to ensure that the funds are distributed in a non-discriminatory and fair manner. This is a difficult issue given some customers who had difficulty paying their bills may have borrowed money, used check advance services or taken on additional jobs in order to pay their bills while others have merely not paid their bills. As a result, a detailed plan needs to be created to alert Gasco's customers of the opportunity to apply to the fund for relief.

This Office stands ready to clarify or expound about the points raised in this letter and

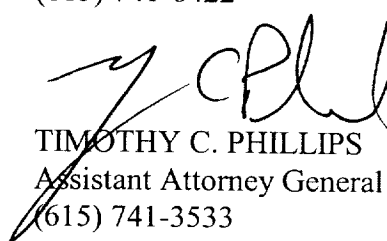
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would welcome the opportunity to assist the Authority further in order to protect the interests of consumers. Should you have any questions or comments, please feel free to call.

Sincerely,



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